

# DRAFT REGULATIONS

## 264 CMR 2.00: GENERAL PROVISIONS

### Section

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#### 2.01: Purpose and Authority

The purpose of 264 CMR 1.00 through 12.00 is to clarify and implement M.G.L. c. 112, §§ 173 through 195 and to establish professional standards for the licensing and certification of real estate appraisers to promote and protect the public interest. ~~M.G.L. c. 112, §§ 173 through 195 were enacted in partial fulfillment of the directives of section 1117 of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law Number 101-73, 103 Stat. 183 (1989); as codified at 12 U.S.C. 3310.~~

~~The Board of Registration of Real Estate Appraisers is organized and functions under the authorization provisions of M.G.L. c. 13, § 92 and M.G.L. c. 112, §§ 173 through 195.~~

~~264 CMR 1.00 through 12.00, are adopted by the Board under the authority of M.G.L. c. 112 §§ 88 and 175 and applicable provision of M.G.L. c. 30A.~~

The provisions of 264 CMR are severable, and should any provision be declared invalid, such invalidity shall not affect other provisions or applications of 264 CMR.

All licensees and certificate holders are charged with having knowledge of the existence of 264 CMR and the ~~adopted version of the Uniform Standards of Professional Appraisal Practice (USPAP), as published and interpreted by the Appraisal Standards Board (ASB) of the Appraisal Foundation~~ USPAP, and shall be deemed to be familiar with the provisions thereof and are required to render appraisal services in accordance with each.

#### 2.02: Gender of Pronouns

Pronouns indicating gender are used indiscriminately in 264 CMR to refer to any person of either sex.

#### 2.03: Definitions

The definitions of the following terms shall apply to 264 CMR 1.00 through 12.00. The definitions used herein shall be construed consistent with the ~~Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by 264 CMR 1.02~~ USPAP. Where inconsistencies are found, the USPAP ~~document and interpretations~~ shall control.

~~**Absorption Period**—the actual or expected period required from the time a property is initially offered for purchase or use by eventual users until all portions have been sold or stabilized occupancy has been achieved.~~

**Analysis** – a study of real estate or real property other than estimating value.

**Appraisal assignment** – an engagement for which an appraiser is employed or retained to act, or would be perceived by a third party or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interest in, or aspects of, identified real estate.

**Appraisal or appraisal of real estate** – a written or oral analysis, opinion or conclusion prepared by a real estate appraiser relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate. The act or process of estimating value. An appraisal may be classified as a valuation or analysis, or both.

**Appraisal Foundation** – the Appraisal Foundation incorporated as an Illinois nonprofit corporation on November 30, 1987 and recognized under the Financial Institution Reform, Recovery and Enforcement Act of 1989 (FIRREA).

**Appraiser Qualifications Board (AOB)** – the board appointed by the Appraisal Foundation to establish criteria for appraiser licensing and certification.

**Appraisal report** – a written or oral report of an appraisal.

**Appraisal review** - the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment related to the appraiser's data collection, analysis, opinions, conclusions, opinion of value, or compliance with the Uniform Standards of Professional Appraisal Practice. The term does not include: (i) a general examination for grammatical, typographical or similar errors, or (ii) a general examination for completeness including regulatory (other than USPAP) and/or client requirements as specified in an agreement process that does not communicate an opinion of value.

**Appraisal Standards Board (ASB)** – the board appointed by the Appraisal Foundation to establish rules for developing and reporting appraisals.

**Appraisal Subcommittee** - The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC) created on August 9, 1989, pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI).

**Appraisal Trainee** – a person who holds a current license as a trainee issued by the Board pursuant to M.G.L. c. 112, § 178.

**Appraiser-in-training** - A State Licensed Appraiser or State Certified Residential

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Appraiser working under the direct supervision of an appraiser licensed at a higher level on assignments outside the scope of practice of the credential held by the appraiser being supervised.

~~**Appraiser Qualifications Board (AQB)**—the board appointed by the Appraisal Foundation to establish criteria for appraiser licensing and certification.~~

~~**AQB**—See Appraisal Qualifications Board.~~

~~**ASB**—See Appraisal Standards Board.~~

**Atypical Factors** – Characteristics that are not typical and that significantly contribute to the value of the real estate, including, but not limited to:

- a. architectural style;
- b. age of improvements;
- c. size of improvements;
- d. size of lot;
- e. neighborhood land use;
- f. potential environmental hazard liability;
- g. property interest;
- h. limited readily available comparable sales data;
- i. changing market conditions; or
- j. other unusual factors

**Board** – the Board of Registration of Real Estate Appraisers established pursuant to the provisions of M.G.L. c. 13, § 92 or any subcommittee thereof.

**Certificate** - the document issued by the Board indicating that the person named thereon has satisfied the requirements for certification as a ~~state-certified residential or state-certified general~~ real estate appraiser.

**Certificate holder** – person in whose name a ~~state-certified residential or state-certified general~~ real estate appraiser certificate has been issued by the Board.

**Classroom hour** – Fifty (50) minutes out of each sixty (60) minute segment.

**Complex one-to-four unit residential property appraisal** – one which the property to be appraised, market conditions, or form of ownership is atypical and which atypical characteristic(s) have a significant value contribution.

**Complex property** –any parcel of real estate where the highest and best use, market conditions, or forms of ownership are atypical or where atypical characteristics have a significant affect on value.

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**Continuing Education** – courses that are approved by the Board to be used to satisfy the education requirements for renewal of a license or certificate.

~~**Cost approach**—a set of procedures through which a value indication is derived by estimating the current cost to construct a reproduction of, or replacement for, the existing structure; deducting accrued depreciation from the cost new; and adding the estimated land value plus an entrepreneurial profit.~~

**Course Provider** – a college, university, other educational entity, or individual that offers real estate appraiser education.

**Direct supervision** – the act of personally reviewing the appraisal report of an Appraisal Trainee and/or an Appraiser-in-training, and to approve and to sign the report as being independently and impartiality prepared and in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP).

**Distance Education** – a Board approved course distinguished by the geographical separation of instructor and learner, including, by way of example but not limitation, CD-ROM, on-line learning, correspondence courses, and video conferencing.

**Elective Education**— a Board approved course designation used when the course subject may enhance the practice of real estate appraisal, but does not focus on the direct application of real estate appraisal practices and principles.

~~**Federal Financial Institutions Regulatory Agencies (FFIRAS)**—Federal financial institutions regulatory agencies forming the Federal Financial Institutions Examination Council (FFIEC).~~

**Federal Registry** – See National Registry of Real Estate Appraisers.

**Federally-related transaction** – any real estate-related financial transaction which a federal financial institutions regulatory agency engages in, contracts for, or regulates, and which requires the services of a real estate appraiser. This term also includes any transaction identified as such by a federal financial institutions regulatory agency.

~~**Income capitalization approach**—a set of procedures through which an appraiser derives a value indicator for an income producing property by converting its anticipated benefits (cash flows and reversion) into property value.~~

**Licensee** – person in whose name a state-licensed, state certified residential, state certified general, ~~real estate appraiser~~ or appraisal trainee license has been issued by the Board.

~~**Marketing period**—the time it takes an interest in real property to sell on the market subsequent to the date of an appraisal.~~

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**Mass appraisal** – the process of valuing a universe of properties as of a given date utilizing standard methodology, employing common data, and allowing for statistical testing.

**National Registry of Real Estate Appraisers (National Registry)** – a registry of individuals who are qualified and eligible to perform appraisals in connection with federally related transactions. This registry is maintained by the Appraisal Subcommittee ~~of the Federal Financial Institutions Examination Council (FFIEC)~~ or its successors.

**Non-residential education** – appraisal education that focuses on nonresidential property subject matter. Nonresidential education includes introductory courses in nonresidential property principles and practice, nonresidential property analysis, capitalization methodology, report form writing, eminent domain proceedings and takings, and other aspects of the income capitalization approach to value.

**Non-residential property** – any improved or unimproved parcel of real estate including, but not limited to the following:

- a. properties used for commercial purposes, whether or not the primary basis for valuing the property is based on income;
- b. multi-family properties larger than four (4) units;
- c. commercially-zoned property; with highest and best use as such;
- d. development properties improved or unimproved, where the primary value is derived from sales revenue less all appropriate deductions and dollar discounts;
- e. easements;
- f. partial interests, such as leaseholds, leased fees, life estates, etc; and
- g. other nonresidential properties or interests.

**Real estate** – an identified parcel or tract of land, including improvements, if any.

**Real estate-related financial transaction** – any transaction involving:

- a. the sale, lease, purchase, investment in, or exchange of real property, including interests in property, or the financing thereof,
- b. the refinancing of real property or interests in real property; or
- c. the use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities.

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**Real property** – one or more defined interests, benefits, and rights inherent in the ownership of real estate.

**Registrant** – person applying for temporary registration based on licensure or certification in another jurisdiction.

**Registration** – licensure or certification by the Board.

**Residential education** – appraisal education that focuses on residential property subject matter. Residential education includes introductory courses in residential property principles and practice analysis, report form writing, and aspects of the replacement cost approach and the direct sales comparison approach to value.

**Residential property** – any parcel or real estate, improved or unimproved, that is utilized for one-to-four family purposes and where the highest and best use is for one-to-four family purposes. A residential unit in a condominium, townhouse or cooperative complex is considered to be residential property. Residential property does not include:

- a. subdivisions wherein a development analysis or appraisal is necessary or utilized;
- b. easements; or
- c. partial interests, such as leaseholds, leased fees, life estates, etc.

**Review appraiser** – an appraiser who examines the reports of other appraisers to determine whether their conclusions are consistent with the data reported and with other generally known information, in accordance with Standard 3 of the USPAP Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by 264 CMR 1.02.

**State-Certified General Real Estate Appraiser** – a person who develops and communicates real estate appraisals and who holds a current, valid certificate as a state-certified general real estate appraiser under the provisions of M.G.L. c. 12, § 178.

**State-Certified Residential Real Estate Appraiser** – a person who develops and communicates real estate appraisals and who holds a current, valid certificate as a state-certified residential real estate appraiser under the provisions of M.G.L. c. 12, § 178.

**State-Licensed Real Estate Appraiser** – a person who develops and communicates real estate appraisals and who holds a current, valid license as a state-licensed real estate appraiser under the provisions of M.G.L. c. 12, § 178.

**Subdivision appraisal** – an appraisal of land which can be valued as more than one lot when all appropriate deductions for completion costs are considered within an absorption period using the methodology of discounting.

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**Supervising appraiser** – a state certified general or state certified residential real estate appraiser who supervises an appraisal trainee and/or an Appraiser-in-training acting in accordance with 264 CMR 6.01: *Scope of Practice*. ~~Effective January 1, 2015, only~~ individuals who have been licensed in good standing as a state certified general or state certified residential real estate appraiser for at least three years in Massachusetts may serve as a supervising appraiser.

**Temporary State-Licensed or State-Certified Real Estate Appraiser** – a person who has been issued a temporary license or certificate pursuant to M.G.L. c. 112, § 183.

~~**Title XI**—Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989; Public Law No. 101-73, 103 Stat. 183 (1989); 12 U.S.C. 3310 as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law No. 111-203).~~

### **Transaction value-**

- a. For loans or other extensions of credit, transaction value means the amount of the loan or extension of credit;
- b. For sales, leases, purchases, and investments in, or exchanges of, real property, transaction value means the market value of the real property involved; or
- c. For the purchase or sale of loans or interests in real property pooled for sale, transaction value means the amount of the loan or the market value of the real property calculated with respect to each loan or real property interest in the pool.

The transaction value for a series of related transactions will be calculated as if only one (1) transaction is involved if it appears that an entity is attempting to evade the requirements that the appraisal be performed by a state-licensed or state-certified appraiser. Master appraisals performed in support of United States Department of Housing and Urban Development, Federal Housing Administration, or Veterans Administration loan transactions will not be considered as one (1) transaction.

**Uniform Standards of Professional Appraisal Practice (USPAP)** – the entire uniform appraisal standards document titled Uniform Standards of Professional Appraisal Practice (USPAP), as ~~adopted by 264 CMR 1.02, defined by 12 C.F.R. §225.191(P).~~

**USPAP** – See Uniform Standards of Professional Appraisal Practice.

**Use value** - the value a specific property has for a specific use.

**Valuation** – an estimate or opinion of the value of real estate or real property.